



REGULATORY AGENCY ACTION

nominated for recognition by the Inter-governmental Council of State Governments. The Council provides recognition of innovative government programs that may have wide application and can serve as models for other states. Scott reported that other states are already studying the Board's program.

At the Board's May meeting, the Enforcement Task Force presented its final report, and then was sunsetted. The recommendations of the Task Force include the following: (1) the AC should develop guidelines and procedures for Board staff and counsel to use in the settlement of discipline cases; (2) members of the Board's Technical Review Panels (volunteer practicing CPAs who investigate complaints against licensees and make recommendations to the AC) should be permitted to participate in enforcement matters on a negotiated basis as special consultants or expert witnesses for pay; however, members of the Board's committees should not be permitted to participate for pay exceeding the standard per diem stipend in the activities of their own committee; (3) staff should rewrite policy and procedures for prioritization and case selection for the Board's Major Case Program; and (4) the Major Case Advisory Committee should develop and implement criteria for the selection of outside counsel in enforcement cases, and develop a list of firms.

FUTURE MEETINGS:

September 27-28 in Sacramento.
November 22-23 in Los Angeles.

BOARD OF ARCHITECTURAL EXAMINERS

Executive Officer: Stephen P. Sands
(916) 445-3393

The Board of Architectural Examiners (BAE) was established by the legislature in 1901. BAE establishes minimum professional qualifications and performance standards for admission to and practice of the profession of architecture through its administration of the Architects Practice Act, Business and Professions Code section 5500 *et seq.* The Board's regulations are found in Division 2, Title 16 of the California Code of Regulations (CCR). Duties of the Board include administration of the Architect Registration Examination (ARE) of the National Council of Architectural Registration Boards (NCARB), and enforcement of the Board's statutes and regulations. To become licensed as an architect, a candidate must success-

fully complete a written and oral examination, and provide evidence of at least eight years of relevant education and experience. BAE is a ten-member body evenly divided between architects and public members. Three public members and the five architects are appointed by the Governor. The Senate Rules Committee and the Speaker of the Assembly each appoint a public member.

MAJOR PROJECTS:

Regulatory Changes. At its May 23 meeting, BAE continued its discussion regarding proposed amendments to sections 134 and 135, Title 16 of the CCR, which would require all types of architectural businesses to advertise similarly, and require all architectural partnerships to list in their title or designation the name of a general partner and the fact that he/she is a licensed architect. At its January 18 meeting, the Board had decided to postpone adoption of the proposed amendments as written. Instead, the Board decided to rewrite the amendments; on May 22, BAE held a public hearing on the revised proposal. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 54; Vol. 11, No. 1 (Winter 1991) p. 48; and Vol. 10, No. 4 (Fall 1990) p. 52 for background information.) At its May 23 meeting, the Board decided to put the matter off again, and created a special task force to help bring the issue to closure; it will report back to the Board at its next meeting.

On March 11, BAE submitted proposed new section 136, Title 16 of the CCR, to the Office of Administrative Law (OAL); section 136 mandates the size, shape, and type of stamp which architects are now required to affix to all plans, specifications, and instruments of service when submitting them to a governmental entity for approval or issuance of a permit. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 54; Vol. 11, No. 1 (Winter 1991) p. 48; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 68 for background information.) On April 3, OAL approved section 136.

LEGISLATION:

SB 527 (Davis), as amended May 20, would extend until January 1, 1997, section 411.35 of the Code of Civil Procedure. This section, which is scheduled to sunset on January 1, 1992, requires the plaintiff's attorney, in specified actions for indemnity or damages arising out of the professional negligence of a person licensed as a professional architect, engineer, or land surveyor, to attempt to obtain consultation with at least one professional architect, engineer, or land surveyor who is not a party to the action

and file a certificate which declares why the consultation was not obtained or that on the basis of the consultation, the attorney believes there is reasonable and meritorious cause for filing the action. This bill passed the Senate on May 24 and is pending in the Assembly Judiciary Committee.

AB 766 (Frazee), as amended April 11, would, among other things, provide that the body of law regulating the practice of architecture may be cited as the Architects Practice Act; officially change the name of the California State Board of Architectural Examiners to the California Board of Architectural Examiners; change references from "architectural corporation" to "professional architectural corporation"; and provide that a license which has expired may be renewed at any time within five years after its expiration, upon the filing of an application for renewal and payment of all accrued and unpaid renewal fees. This bill passed the Assembly on May 16 and is pending in the Senate Business and Professions Committee.

FUTURE MEETINGS:

September 30 in Monterey.

ATHLETIC COMMISSION

Executive Officer: Ken Gray
(916) 920-7300

The Athletic Commission is empowered to regulate amateur and professional boxing and contact karate under the Boxing Act (Business and Professions Code section 18600 *et seq.*). The Commission's regulations are found in Division 2, Title 4 of the California Code of Regulations (CCR). The Commission consists of eight members each serving four-year terms. All eight members are "public" as opposed to industry representatives.

The current Commission members are Bill Malkasian, Raoul Silva, Ara Hairabedian, P.B. Montemayor, M.D., Jerry Nathanson, Thomas Thaxter, M.D., Charles Westlund, and Robert Wilson.

The Commission has sweeping powers to license and discipline those within its jurisdiction. The Commission licenses promoters, booking agents, matchmakers, referees, judges, managers, boxers, and martial arts competitors. The Commission places primary emphasis on boxing, where regulation extends beyond licensing and includes the establishment of equipment, weight, and medical requirements. Further, the Commission's power to regulate boxing extends to the separate approval of each contest



to preclude mismatches. Commission inspectors attend all professional boxing contests.

The Commission's goals are to ensure the health, safety, and welfare of boxers, and the integrity of the sport of boxing in the interest of the general public and the participating athletes.

MAJOR PROJECTS:

Commission Seeks New Executive Officer. Following Executive Officer Ken Gray's March 15 announcement that he would be retiring in July, the Commission created an ad hoc committee to review applications and narrow the number of candidates to three. The Commission planned to interview those three individuals at its July 19 meeting, and to make a decision at that time. Some of the candidates currently being considered are Assistant Executive Officer Steven English, Commissioner Raoul Silva, *Ring Sports* magazine columnist Bill Barros, and Commission employee Robert Lynch. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 55 for background information.)

Gift and Honoraria Rules are Clarified. At its May 17 meeting, the Commission discussed changes to the Fair Political Practices Commission's gift and honoraria rules, with which commissioners and staff must comply. For example, the rules prohibit commissioners and staff from accepting gifts totalling more than \$250 in value in any one calendar year from one person or entity; this includes tickets given to commissioners or staff by licensed promoters for boxing events.

Regulatory Changes. At its March 15 meeting, the Commission adopted amendments to section 282 and adopted new section 288, Title 4 of the CCR, regarding vision requirements and ring-side physicians, respectively. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 55 for background information.) As of June 1, the regulatory package has not been sent to the Office of Administrative Law (OAL), as the Commission's legal counsel is considering whether clarifications to the language of the proposal are needed.

At its May 17 meeting, the Commission agreed to pursue amendments to section 312, Title 4 of the CCR, regarding the number and location of ring ropes. A draft version of the proposed amendments would increase the number of required ring ropes from three to four, and would provide that the lowest rope be 18 inches above the ring floor; the second rope 30 inches above the floor; the third rope 42 inches above the floor; and the fourth rope 54 inches above the

ring floor. Staff was directed to proceed with the necessary rulemaking procedures.

Budget Crisis. At its May meeting, the Commission reviewed its 1990-91 budget; if the Commission sticks to its projected budget, it will end the fiscal year with a \$1,100 balance. The Commission's 1991-92 budget of \$764,241 has been tentatively approved by the legislature; however, at this writing, the entire state budget is still being negotiated and the Commission's budget may be affected as a result of the negotiations.

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 2 (Spring 1991) at pages 55-56:

AB 649 (Floyd), as amended April 15, would provide that participation in the existing pension plan for professional boxers who engage in boxing contests in California is voluntary instead of mandatory; this bill passed the Assembly on May 2 and is pending in the Senate Business and Professions Committee.

AB 647 (Floyd), as amended April 15, would, among other things, delete existing licensure requirements for ring announcers and delete the Commission's authority to license doormen, ushers, and booking agents. This bill passed the Assembly on May 2 and is pending in the Senate Business and Professions Committee.

AB 648 (Moore), as amended April 15, proposes to make various revisions to existing law regarding the neurological examinations required by the Commission. For example, the bill would delete existing law which provides that the cost of required neurological examinations shall be paid from assessments on promoters of professional boxing matches in California, and would delete the existing authority for the Boxers' Neurological Examination Account in the General Fund. This bill passed the Assembly on May 2 and is pending in the Senate Business and Professions Committee.

AB 672 (Polanco), as introduced February 21, is a Commission-sponsored bill that would require any Commission representative to be admitted to any place where a telecast of any current, live, or spontaneous contest or exhibition is shown or exhibited or to be shown or exhibited; require any licensed promoter or other specified persons to notify the Commission whenever the broadcasting or television rights to any contest or match are sold, leased, distributed, or otherwise made available; authorize the Commission, its executive officer, or its authorized representative

to seek a temporary restraining order stopping a closed circuit telecast, and authorize the Commission to assess a fine against any unlicensed person; and make it a misdemeanor for any person to sell, lease, distribute, or make available to any other person or organization who does not possess a permit issued by the Commission, the broadcasting or television rights to any contest or match, regardless of locale, for showing, viewing, or exhibition of a closed circuit telecast. This bill is still pending in the Assembly Governmental Organization Committee.

AB 699 (Polanco), as amended April 23, is a Commission-sponsored bill that would, among other things, authorize the Commission to order a boxer or martial arts fighter to take a chemical test before or after a contest for the detection of substances which are prohibited under rules adopted by the Commission. This bill would also provide that 50% of the cost of the first neurological examination administered for a boxer each year shall be paid by professional boxers and their managers and give the Commission discretion to require the assessments to be made at the time of application for licensure, at the time of the approval of a contest, or to be withheld from gross receipts or the boxer's purse. This bill is still pending in the Assembly Governmental Organization Committee.

AB 2133 (Polanco), as amended April 23, would define a booking agent to mean any person who books a licensed professional boxer or martial arts fighter to fight in a contest inside or outside of this state; it would not include a licensed manager who books fights for a boxer or martial arts fighter pursuant to a boxer-manager contract approved by the Commission.

The April 23 amendment to this bill deleted language which would have provided that a professional fighter is not liable for the payment of the cost of any medical or neurological examination required pursuant to the Boxing Act. This bill is still pending in the Assembly Governmental Organization Committee.

RECENT MEETINGS:

Between March and May, Commission Chair Charles Westlund and Commissioner Ara Hairabedian looked into Commissioner Jerry Nathanson's accusations of budget irregularities and a lack of leadership by Executive Officer Ken Gray. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 55 for background information.) At its May 17 meeting, the ad hoc committee announced that it found no evidence of wrongdoing and determined that some of Nathanson's complaints



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concerned things the Commission itself had directed Gray to do. The committee recommended that the investigation be terminated and that future accusations be accompanied by evidence; the Commission accepted the committee's report.

At its May 17 meeting in San Francisco, the Commission agreed to have the Department of Consumer Affairs' Central Testing Unit (CTU) evaluate the Commission's neurological exam program, which is the subject of considerable controversy. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 55 for background information.) The study will examine the examination procedure, its rationale, and its effectiveness (including validity and reliability issues), and will specifically look at whether the exam is effective in detecting early signs of mental impairment. Two workshops attended by neurologists and neuropsychologists will be convened to discuss validity and reliability issues. CTU will act as an independent consultant in this process. The Commission expects the study to be complete in approximately three months.

FUTURE MEETINGS:

September 20 in Sacramento.
October 18 in Sacramento.
November 15 in Los Angeles.
December 13 in Sacramento.

BUREAU OF AUTOMOTIVE REPAIR

Chief: James Schoning

(916) 366-5100

*Toll Free Complaint Number:
1-800-952-5210*

Established in 1971 by the Automotive Repair Act (Business and Professions Code sections 9880 *et seq.*), the Department of Consumer Affairs' (DCA) Bureau of Automotive Repair (BAR) registers automotive repair facilities; official smog, brake and lamp stations; and official installers/inspectors at those stations. The Bureau's regulations are located in Division 33, Title 16 of the California Code of Regulations (CCR). The Bureau's other duties include complaint mediation, routine regulatory compliance monitoring, investigating suspected wrongdoing by auto repair dealers, oversight of ignition interlock devices, and the overall administration of the California Smog Check Program.

The Smog Check Program was created in 1982 in Health and Safety Code section 44000 *et seq.* The Program provides for mandatory biennial emissions testing of motor vehicles in federally

designated urban nonattainment areas, and districts bordering a nonattainment area which request inclusion in the Program. BAR licenses approximately 16,000 smog check mechanics who will check the emissions systems of an estimated eight million vehicles this year. Testing and repair of emissions systems is conducted only by stations licensed by BAR.

Approximately 80,000 individuals and facilities—including 40,000 auto repair dealers—are registered with the Bureau. Registration revenues support an annual Bureau budget of nearly \$34 million. BAR employs approximately 600 staff members to oversee the Automotive Repair Program and the Vehicle Inspection Program.

Under the direction of Chief James Schoning, the Bureau is assisted by a nine-member Advisory Board which consists of five public and four industry representatives. Four members of the Advisory Board—Herschel Burke, Vincent Maita, Alden Oberjuege, and Jack Thomas—will be considered for reappointment during the summer of 1991. The remaining Advisory Board members are Carl Hughett, Joe Kellejian, Louis Kemp, William Kludjian, and Gilbert Rodriguez.

MAJOR PROJECTS:

New Chief Appointed by Governor Wilson. On May 2, Governor Wilson appointed James Schoning, a former senior trainer for the Coro Foundation, as BAR's new Chief. Schoning assumed his official duties in late May after attending the May 17 Advisory Board meeting at BAR's offices in Sacramento. He replaces John Waras, who served as Chief since January 1989 under appointment by former Governor Deukmejian.

At the same time, DCA Director James Conran announced that Amparo Garcia, BAR's former Chief of Administrative and Technical Services, would serve as BAR's new deputy chief. Ms. Garcia replaces Doug Laue, who is expected to take a position within DCA.

Clean Air Act Update. Recent amendments to the comprehensive federal Clean Air Act will become effective on November 15. In April, the U.S. Environmental Protection Agency (EPA) issued its "Draft Guidance Document" for smog check programs nationwide. This document identifies two types of programs: basic and enhanced. Basic programs require a three-pronged test, including a tailpipe emission component, an engine function component, and a visual inspection component. In contrast, enhanced program features include computerized analyzers, on-road testing

devices, and a host of more stringent emissions reduction measures. The type of program necessary for a given metropolitan area depends upon EPA classifications involving population growth, topography, and other factors. EPA was expected to release the final version of this guidance document, which is not considered to have the legal effect of formal regulations, in June.

Although there are many conflicts between the federal and state inspection program specifications (including cost limits and test equipment specifications), the major incompatibility pertains to centralization. The federal guidelines call for centralized, government-operated testing programs, whereas California maintains a decentralized system which is now the largest in the world. Regulators from many state and federal agencies will attempt to reach some sort of compromise in this area by November. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 58 and Vol. 11, No. 1 (Winter 1991) pp. 50-51 for background information.)

The second major difficulty posed by EPA's draft guidelines involves chlorofluorocarbon (CFC) handling by automobile repair dealers. Automobile air-conditioning units account for much of the CFC threat to the ozone layer. The principal concern from BAR's perspective appears to be the proposed certification of technicians and equipment to handle air-conditioning refrigerants. EPA has indicated that a rule is being drafted to mandate a nationwide certification system, and that adoption of the final rule is expected by November 15.

LA District Attorney Seeks to Reduce Smog Device Tampering. In May, Los Angeles District Attorney Ira Reiner announced plans to reduce or eliminate tampering with automobile pollution control devices; these plans include roadside smog checks, use of a sensing device to identify violators, and stiff fines for offenders. According to Reiner, the proposal is meant to augment BAR's Smog Check Program test required for motor vehicle registration. BAR estimates that 25% of vehicles on the road show evidence of tampering.

Under the proposal, the state would purchase 100 infrared pollution detectors which some researchers believe are able to sense the amount of carbon monoxide being emitted from vehicles. California Highway Patrol officers would pull over suspect cars and Air Resources Board staff members would inspect under the hood and administer a more detailed smog check with standard testing machines.

Where there is a deliberate effort to disconnect or remove the emission control